

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #15	CCRB Case #: 202007033	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 10/08/2020 10:41 PM	Location of Incident: § 87(2)(b)	Precinct: 103	18 Mo. SOL 4/8/2022	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 10/22/2020 2:00 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 10/22/2020 2:00 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Christopher Messina	18635	966713	103 PCT
2. POF Kelly Waugh	18363	962166	103 PCT
3. POM Alex Schneider	03565	961259	GVSD Z1

Officer(s)	Allegation	Investigator Recommendation
A.POF Kelly Waugh	Abuse: Police Officer Kelly Waugh stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(g), § 87(4-b)
B.POM Christopher Messina	Abuse: Police Officer Christopher Messina stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(g), § 87(4-b)
C.POM Alex Schneider	Abuse: Police Officer Alex Schneider stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(g), § 87(4-b)
D.POM Alex Schneider	Abuse: Police Officer Alex Schneider threatened to issue summons to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
E.POF Kelly Waugh	Off. Language: Police Officer Kelly Waugh made offensive remarks to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(4-b)	§ 87(2)(g), § 87(4-b)

## Case Summary

On October 22, 2020, § 87(2)(b) and his mother, § 87(2)(b) filed this complaint with the CCRB via telephone.

At approximately 8:41 p.m. on October 8, 2020, § 87(2)(b) and his girlfriend, § 87(2)(b) were driving near § 87(2)(b) in Queens when they were pulled over by Police Officer Kelly Waugh, Police Officer Christopher Messina, and Police Officer Alex Schneider of the 103<sup>rd</sup> Precinct (**Allegations A, B and C: Abuse of Authority – Vehicle stop, § 87(2)(g)**). Police Officer Schneider allegedly told § 87(2)(b) that he could be issued a summons because he had tinted windows (**Allegation D: Abuse of Authority – Threat of summons, § 87(2)(g)**). § 87(2)(b) provided his driver's license to the officers. Police Officer Waugh used it to run a check on him. She then stated that § 87(2)(b) was a "glorified EDP" (**Allegation E: Offensive Language – Other, § 87(2)(g)**). The officers returned § 87(2)(b)'s license and released him with a warning. He was not arrested or issued a summons.

§ 87(2)(g), § 87(4-b)

The investigation obtained three clips of body-worn camera (BWC) footage from this incident. The videos are attached in IA #61 and summarized in IA #62 (Board Review #01-02).

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Kelly Waugh stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (B) Abuse of Authority: Police Officer Christopher Messina stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (C) Abuse of Authority: Police Officer Alex Schneider stopped the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(b) and § 87(2)(b) were interviewed by the CCRB on November 2, 2020. Police Officer Waugh and Police Officer Messina were interviewed by the CCRB on June 30, 2021. Police Officer Schneider was interviewed by the CCRB on August 6, 2021. The investigation was unable to obtain a statement from § 87(2)(b) (Board Review #03).

It is undisputed that the officers pulled § 87(2)(b) over after he made a U-turn on Jamaica Avenue. Jamaica Avenue is a two-way street with two lanes of traffic, divided by a median. When § 87(2)(b) asked why he had been stopped, the officers accused him of making a wide U-turn that crossed multiple lanes of traffic, failing to signal the turn, and having tinted windows. The officers ultimately released § 87(2)(b) with a warning and did not arrest him or issue any summonses.

§ 87(2)(b) denied that he made an improper U-turn before being stopped. He stated that he made the U-turn from the left lane and denied crossing other lanes of traffic. He stated that he used his turn signal while making the turn. § 87(2)(b) also stated that his windows are tinted to block 15% of light transmission, which is within the legal limit.

§ 87(2)(b) was not present at the time of the stop. She was at home at § 87(2)(b) and came outside after the officers had already pulled § 87(2)(b) over. The officers then told her that they had stopped § 87(2)(b) for making a wide U-turn and failing to use his turn signal. The officers did not mention § 87(2)(b)'s windows being tinted. § 87(2)(b) is aware that § 87(2)(b)

§ 87(2)(b) has tinted windows on his vehicle, but she does not know if the level of tint is within the legal limit.

All three officers stated that they observed § 87(2)(b) make a U-turn on Jamaica Avenue. He made the turn from the right side of the road, causing him to cross through multiple active lanes of traffic while making the turn. He also did not signal before making the turn. The officers cited these actions as reasons for pulling § 87(2)(b)'s vehicle over. Police Officer Waugh and Police Officer Messina also accused § 87(2)(b)'s vehicle of having improperly tinted windows. Police Officer Schneider initially did not recall if the vehicle's windows were tinted and did not cite it as a factor in the vehicle stop. Later, after viewing his BWC footage of the incident, he recalled that the vehicle's windows were tinted and that it was a factor in his decision. The officers all stated that the windows appeared to be tinted beyond the legal limit of blocking 30% light transmission. They did not conduct any checks on the windows.

All three officers stated that PO Schneider independently decided not to issue § 87(2)(b) a summons for these infractions. PO Schneider explained that he did so because § 87(2)(b) seemed to be upset and having an "off day," so he decided to give § 87(2)(b) a break.

Absent additional testimony or documentation, the investigation was unable to determine whether § 87(2)(b) made an improper U-turn, failed to use his turn signal before making the turn, or whether the windows on his vehicle were tinted past the legal limit. None of the officers cited any other factors in justifying the vehicle stop. § 87(2)(g)

§ 87(2)(g)

**Allegation (D) Abuse of Authority: Police Officer Alex Schneider threatened to issue summons to § 87(2)(b)**

§ 87(2)(b) stated that Police Officer Schneider told him during the stop that he could give § 87(2)(b) a summons for having improperly tinted windows. § 87(2)(b) made no mention of an officer discussing § 87(2)(b)'s window tints during the stop. She did not allege that any officer threatened to issue § 87(2)(b) a summons.

All three officers stated that § 87(2)(b) had tinted windows. Police Officer Schneider initially did not recall if § 87(2)(b)'s windows were tinted but recalled that they were after he viewed his BWC footage. None of the officers recalled themselves or their partners telling § 87(2)(b) that he could be issued a summons for any reason.

All three officers' BWC footage from the incident is attached in IA #61 (Board Review #01). Each officer's footage covers the entirety of the interaction, from when they first approach § 87(2)(b)'s vehicle to when they return to their vehicle to depart. At 1:15 to Police Officer Schneider's video, he recites the reasons why they pulled § 87(2)(b) over. He accuses § 87(2)(b) of having tinted windows. He does not state that § 87(2)(b) could be issued a summons for the offense. At no point during any of the videos is any officer heard telling § 87(2)(b) that he could be issued a summons for any reason.

§ 87(2)(g)

**Allegation (E) Offensive Language: Police Officer Kelly Waugh made offensive remarks to**

§ 87(2)(b)

It is undisputed that § 87(2)(b) provided his driver's license to the officers during the stop. Police Officer Waugh ran a warrant check on the license. When she did, she found that § 87(2)(b) had been forcibly removed to the hospital as an emotionally disturbed person (EDP) on several occasions. None of the officers suspected that § 87(2)(b) was in an emotionally disturbed state during the incident.

§ 87(2)(b) and § 87(2)(b) stated that § 87(2)(b) suffers from unspecified mental health issues that have led to him being hospitalized on several occasions. After Police Officer Waugh conducted her warrant audit, she told Police Officer Schneider that § 87(2)(b) was an "EDP." § 87(2)(b) and § 87(2)(b) assumed that Police Officer Waugh was referring to § 87(2)(b)'s previous hospitalizations. They both thought that it was inappropriate for Police Officer Waugh to reference § 87(2)(b)'s past issues with mental health under the circumstances.

Police Officer Waugh stated that when she conducted her search on § 87(2)(b) she saw records of several AIDED reports that had been filed during § 87(2)(b)'s previous hospitalizations. Police Officer Waugh relayed to Police Officer Schneider that § 87(2)(b) was an "EDP." She did not recall how she phrased the remark. She did not recall if she meant to indicate that she believed § 87(2)(b) to be emotionally disturbed at the time of the incident.

Police Officer Waugh's BWC footage from this incident is attached in IA #61 (Board Review #01). At 1:20 into the recording, Police Officer Schneider passes § 87(2)(b)'s license to her. She enters his information into her cell phone. At 2:10 into the recording, she states, "He's a glorified EDP." At 2:45 into the recording, Police Officer Schneider turns to Police Officer Waugh and asks, "Good?" Police Officer Waugh replies, "He's good. He's an EDP." While Police Officer Waugh makes these remarks to Police Officer Schneider, she is shown to be standing next to § 87(2)(b) by the driver's window.

NYPD Patrol Guide procedure 200-02 states that officers must respect the dignity of each individual and render services with courtesy and civility (Board Review #04).

NYPD Patrol Guide procedure 221-13 defines an emotionally disturbed person as an individual who appears to be mentally ill or temporarily deranged and is conducting themselves in a manner which a police officer reasonably believes is likely to result in serious injury to themselves or others (Board Review #05).

Based on the BWC footage, the investigation determined that Police Officer Waugh made an inappropriate and insensitive remark regarding § 87(2)(b)'s mental status. While Police Officer Waugh directed her remark to Police Officer Schneider, she was standing in § 87(2)(b)'s immediate presence when she spoke, allowing him to overhear it.

The term "emotionally disturbed person" or "EDP" is applied only in specific circumstances, based on specific behaviors that an individual might display. If the individual in question ceases displaying those behaviors, then the label no longer applies. The label cannot be applied to a person in a broad or general manner, divorced from a particular encounter.

The information Police Officer Waugh discovered indicated only that § 87(2)(b) had been classified as an emotionally disturbed person on several occasions in the past. Rather than relaying

this information to Police Officer Schneider, however, Police Officer Waugh instead referred to § 87(2)(b) as a “glorified EDP.” This statement characterizes § 87(2)(b) as being in a general state of emotional disturbance, independent of the circumstances of this incident. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

### Civilian and Officer CCRB Histories

- § 87(2)(b)
  - § 87(2)(b)
  - § 87(2)(b)
  - § 87(2)(b)
- § 87(2)(b)
  - § 87(2)(b)
- Police Officer Waugh has been a member of the service for five years and has been a subject in one previous CCRB complaint and two allegations, neither of which was substantiated. § 87(2)(g)
- Police Officer Messina has been a member of the service for two years and has been a subject in two previous CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Schneider has been a member of the service for five years and has been a subject in two previous CCRB complaints and eight allegations, none of which were substantiated. § 87(2)(g)

### Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.


- As of February 16, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint.

- § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- § 87(2)(b) [REDACTED]  
[REDACTED]

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Squad: 15

Investigator: Owen Godshall Inv. Owen Godshall 8/8/2021  
Signature Print Title & Name Date

Squad Leader:  IM Simon Wang 09/17/21  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date